

**STATEMENT OF  
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BEFORE THE COMMITTEE ON INDIAN AFFAIRS  
AND THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS  
UNITED STATES SENATE  
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Chairman Campbell, Chairman D'Amato, and Committee Members, thank you for the opportunity to appear before you today to discuss Indian housing programs administered by the Department of Housing and Urban Development. My testimony will relate Office of Inspector General (OIG) findings relative to 29 cases of alleged fraud, abuse, and mismanagement that were reported in December 1996 by *The Seattle Times*. Based on those findings, as well as a substantial body of other OIG audits and investigations, I will explore the reasons for fraud, abuse, and mismanagement in Indian housing programs and discuss some preventive measures that could be taken.

**Profile of Native American Housing**

The Native American housing problem is reaching crisis proportions. A recent report prepared for HUD states that more than 100,000 Native Americans are waiting for decent housing. Some have been waiting for 10 years or more, in conditions typically associated with extremely underdeveloped countries.

Federal assistance to specifically meet Indian housing needs was first provided under a trial rental assistance program in 1961 and under the Mutual Help Homeownership Program for low-income families in 1962. HUD assumed responsibility for Indian Housing programs when the Department was created in 1965. Indian housing programs were administered as part of HUD's public housing program until 1976, when the first Indian housing regulations were published. As of March 1997, the Office of Native American Program's (ONAP's) Management Information Retrieval System shows that 201 Indian Housing Authorities have 68,990 housing units under management and 9,886 housing units under development.

The Department has come to realize that Indian housing needs are quite distinct from those met by HUD's public housing programs, which are heavily focused on large cities and concentrated populations. As a result, the Department and the Congress have worked toward separating Indian housing programs from other housing programs through regulatory and legislative changes. The culmination of these efforts was the Native American Housing Assistance and Self-Determination Act of 1996. Under this Act, effective October 1, 1997, funding for Indian housing

programs will be provided through formula-driven block grants, rather than through multiple, discrete HUD programs. The funding for Native American block grants is estimated at \$485 million dollars a year for fiscal years 1998 through 2002.

ONAP is responsible for enabling Indian Housing Authorities to achieve the objectives of providing decent, safe, and sanitary housing by awarding funds, monitoring, and providing technical assistance and oversight. ONAP consists of one national office and six regional offices (Eastern Woodlands, Southern Plains, Northern Plains, Southwest, Northwest, and Alaska).

***The Seattle Times* Reports of Fraud, Abuse, and Mismanagement: Generally Accurate**

From December 1 through 5, 1996, *The Seattle Times* ran a series of articles alleging--based on 29 specific cases from Maine to California--that the federal Indian housing program is riddled with fraud, abuse, and mismanagement. At the request of the Secretary of HUD, the OIG looked into all 29 cases and found that *The Seattle Times* accounts of serious problems are generally accurate. Attached to this statement is a preliminary summary of the OIG findings.

OIG inquiry into and analysis of these 29 cases is continuing, with the expectation of issuing an OIG audit report, with a target report issuance date of June 30, 1997. At this point, however, the following types of problems appear to be prevalent.

- Executive Directors and Board members, who are expected to promote economical and effective operations, in fact are misusing scarce resources and abusing their positions for personal gain.
- Housing Authorities are using HUD funds as leverage to build large and extravagant homes that some middle-income families would find difficult to afford.
- Native Americans who have already received benefits from the program or do not need assistance are receiving additional benefits--while low-income families who desperately need assistance remain on waiting lists.
- Contracting practices are so poor that millions of dollars have been squandered and/or are unaccounted for.
- Mismanagement and waste of program funds are fostered by a lack of local accountability and self-policing by IHAs, HUD's unwillingness or inability to effectively enforce program rules, and Tribal influences over housing authorities.
- Opportunities exist under current program design for housing authorities to design their housing programs to play favorites. By doing so, they end up wasting funds

and abusing the program.

The existence of these types of problems was not a surprise to the OIG or HUD. Before publication of *The Seattle Times* articles, the OIG had work ongoing or completed on 17 of the 29 cases. Further, since 1993, the OIG has completed 17 other audits and investigations of Indian housing programs, and they have often resulted in similar findings. A large part of the OIG's work on Indian housing programs is based on referrals from ONAP.

Please bear in mind that the OIG tends to focus on entities and functions where we believe improvement may be called for. The fact that we have found recurring problems with Indian housing programs should not be construed to mean that these problems exist at every Indian Housing Authority.

### **Examples of Fraud, Waste, and Mismanagement from OIG Work at Six Indian Housing Authorities**

- White Earth (White Earth, Minnesota)

The Tribal Chairman ordered the Housing Authority's Executive Director to award construction contracts to selected companies and individuals; and, in fear for his job, he did so. These companies and individuals completed only 8 of the planned 50 houses while spending \$3.8 million of the \$4.4 million grant. Forty-two other partially completed units are being severely damaged by the winter weather. The Housing Authority estimates it will be able to complete 12 of these.

Favoritism did not stop at the award of construction contracts. The Tribal Council also dictated to whom the Housing Authority would give homes. Since 1992, 26 probable relatives of the Tribal Council, Housing Authority Board of Commissioners, and Housing Authority employees received housing units without being on the waiting list. Thirty-one other families with no known relation were also awarded units without being on the waiting list. The Eastern Woodlands ONAP received complaints and information on favoritism in awarding units as early as April 1992 and again in May 1992, January 1995, and March 1996. ONAP visited the Housing Authority in 1992 and verified the complaint, but did not require corrective action at that time or as a result of the additional information received in 1995 and 1996.

The Eastern Woodlands Office took physical control of this Housing Authority on November 6, 1996, because of violations of procurement and contracting procedures; failure to recertify tenants; excessive tenant accounts receivables; failure to follow the waiting list for unit assignments; and lack of an operational

Board.

- Mashantucket Pequot Housing Authority (Ledyard, Connecticut)

When the Housing Authority wanted to return \$1.5 million, HUD advised that the Department would rather have the Housing Authority use the funds to provide unneeded housing than to send the money back to Treasury. The Housing Authority realized they did not need a \$1.5 million development grant because of the recent success of their casino. However, ONAP encouraged the Housing Authority to use the funds due to ONAP's understanding that the funds could not be provided to another tribe if they were returned.

The Housing Authority then used the \$1.5 million to subsidize the construction of 15 large homes for over-income tribal members. While HUD's contribution per home was limited to \$100,000, the cost per home averaged \$428,000. Current income information for each family assisted was not available. However, prior income information shows that incomes averaged \$61,333 and seven of the 15 families earned between \$80,000 and \$206,000 (some income information included tribal incentive payments from the casino while some did not). The Tribe did not draw funds down from HUD until the project was 95 percent complete and the Tribe had already spent \$4.9 million of its own money on the 15 homes (3 years after the grant was awarded).

- Otoe Missouria Housing Authority (Red Rock, Oklahoma)

A consultant profited by informing the Housing Authority of known loopholes that encouraged the Housing Authority to play favorites in deciding the people to be housed. A 30 year ONAP official, now retired and acting as a consultant, informed the Housing Authority of how the program design would allow for potential abuses. He started work under a \$101,376 two-year contract two days after he retired and showed the Housing Authority how to change its development program to provide homebuyers free houses. After realizing they could give houses away, the Housing Authority removed 9 homebuyers that were already selected and replaced them with other Tribal members. All five Board members got houses for themselves or family members. The Housing Authority built the largest houses in the program for the Board chairman and the Executive Director, neither of which had any minor children.

- Pleasant Point Passamaquoddy (Perry, Maine)

The Executive Director, knowing program rules, exploited her position for personal gain and enrichment of her family. The Executive Director worked a

complicated scheme to obtain a new Mutual Help house referred to as "the mansion." This included the sale of her house to the Housing Authority at an inflated price. The Executive Director then paid for remodeling her new house with the Housing Authority's credit card (about 50 percent of the charges have been repaid). The Executive Director took care of her family by using Housing Authority assets to secure a construction loan for her brother-in-law and awarding a lucrative procurement contract to her brother-in-law.

- Tulalip Indian Housing Authority (Marysville, Washington)

The Executive Director and her husband, the Director of Development, designed the Housing Authority's development program to personally obtain their "dream home" and benefit other over income families. The program produced a 5,286 square foot home for the Executive Director, who had family income of about \$92,000, and two other homes in excess of 2,500 square feet for other over-income families. The program not only allowed the construction of large houses, it also allowed families to buy the houses at up to \$60,000 less than they cost to build.

- Owens Valley (Big Pine, California)

The Housing Authority decided to give families their homes, refund past payments, forgive any amounts owed, and fix the houses. The Executive Director said this was due to a sincere effort on the part of tribal leaders to provide homeownership opportunities to Mutual Help homebuyers. They restructured the payment terms for 78 units (reducing the term from 25 years to 15), returned \$352,338 to the Mutual Help residents, forgave the remaining amount owed, and expect to quit claim the deeds to residents by May 1997. This is all allowable under current program rules. In addition, these 78 units are eligible for and are receiving about \$20,000 apiece in rehabilitation funding, even though the Housing Authority is transferring title to the homebuyers. The Housing Authority recognizes that, because of this restructuring, it has severely diminished its financial capacity to offer the same benefits to other residents.

### **Reasons for Fraud, Abuse, and Mismanagement: HUD's Role**

The fraud, abuse, and mismanagement that exist at Indian Housing Authorities make it vital that HUD take appropriate action to alleviate these problems. HUD should be assisting IHAs in developing and operating effective housing programs. Further, when HUD staff become aware of loopholes that allow abuses, inefficiencies, or activities to occur that are inconsistent with program intent, they need to take action to close the loopholes. And finally, diligent monitoring by HUD staff needs to result in prompt

enforcement actions when abuses are discovered.

In the OIG's judgment, ONAP's program administration is deficient in four principal respects:

1. Program design, deregulation, and current regulations invite opportunities for waste and abuse. Specifically:
  - The Indian Housing Act of 1988 and current requirements permit IHAs to provide assistance to over-income families (when there is a demonstrated need) instead of low-income. Our work shows that IHAs have used this opportunity to house over-income families with incomes up to \$92,000 without a demonstrated need. In at least one office, ONAP routinely approves this over-income participation.
  - The Annual Contributions Contract for Indian Housing does not preclude Board members and employees in decision-making positions from participating in the program. These individuals can participate and receive housing. This allowance provides the opportunity for program abuse.
  - Regulations since 1989 have slowly removed HUD from the review and approval of the project design. Current regulations require an IHA to use a “moderate design standard”, which is not defined by HUD. IHAs have used the loophole to build large and costly houses, one over 5,000 square feet and another costing over \$500,000.
  - Until May 1995, HUD regulations required that the sales price of Mutual Help units be based on the cost of building the project. Under deregulation, this requirement was dropped and housing authorities are now allowed to determine the sales price. We have seen IHAs take advantage of this opportunity and sell houses for \$1. This has prevented IHAs from using possible proceeds of sale for other low-income housing purposes.

Housing authorities have taken advantage of these opportunities. For instance, the Tulalip and Mashantucket Pequot Housing Authorities provided homes to over-income families. Executive Directors, Board members, and their families have benefited from designing housing programs at the Otoe Missouri, Pascua Yaqui, and Pleasant Point Passamaquoddy Housing Authorities. The Tulalip and Mashantucket Pequot Housing Authorities built homes with no apparent size limitation. Finally, the Owens Valley and Otoe Missouri Housing Authorities gave away Mutual Help homes to the homebuyers by setting the sales price at \$1

or less.

2. Over the life of Indian housing programs, the rules have been adjusted to accommodate non-performance. For example, the Mutual Help program in which homebuyers are fully responsible for routine maintenance, has been changed over the years. Initially, Mutual Help units were not eligible for modernization. However, now an IHA can modernize a Mutual Help unit as soon as the homebuyer moves in and can still modernize the unit after it has been conveyed to the homebuyer. As discussed earlier for Owens Valley, this has permitted the Housing Authority to modernize a home it no longer has any responsibility for maintaining.
3. In our opinion, ONAP's monitoring attitude creates a culture and attitude of complacency about compliance issues among IHAs. ONAP staff do not recognize and act on the early warning signs of problems. Also, known problems are being ignored or not addressed until they reach drastic proportions. As one consultant says, "They are systematically destroying Indian housing as we know it. There is no monitoring of the pot of gold." For example, at White Earth, ONAP had received information on problems with awarding units as early as April 1992. However, they did not require corrective action at that time or when they received additional information and complaints.

ONAP staff tends to maintain a mentor posture rather than an enforcement posture--until a crisis occurs. For instance, one ONAP Administrator stated they were aware of problems at IHAs but were waiting for the "time to be right" to take action. Many times, when ONAP faces a major problem, they turn to an outside party such as the OIG or consultants to resolve the problem and reestablish the guise of program integrity.

4. Without documentation, there is no accounting for the contribution, value, and expertise that ONAP's staff adds to IHA performance. ONAP staff do not sufficiently document their monitoring and technical assistance decisions and actions to show what they do and the assistance they provide to IHAs. Staff may have extensive phone contacts and discussions with IHA staff, but this is not reflected in historical records.

### **Reasons for Fraud, Abuse, and Mismanagement: Conditions at IHAs**

IHAs operate in difficult and diverse environments. The remote and, in some cases, severe living conditions make providing decent and safe housing difficult. Also, a recent study completed by the Urban Institute estimates that 40 percent of Native American households live in overcrowded or physically inadequate housing, compared to about six

percent of the U.S. population. The need for housing in the areas served by the IHAs is increasing as Native Americans grow in number and return to their homelands.

Many Indian areas have limited economic opportunities and depend on HUD for part of their economic base. However, some tribes have reservations near urban cities and some operate gambling facilities that generate considerable gambling revenues and income for Tribal members.

IHAs have continually had problems with maintaining administrative capability in order to adequately provide and manage housing programs. Getting and keeping qualified staff people has been a recurring problem. ONAP experience has shown that when a Tribe treats its activities as a well run and long term business, they will have fewer problems. However, when the Tribe or IHA allows family and cultural relationships to dominate, there is a natural tendency to support tribal members rather than to enforce the rules controlling the housing funds.

HUD's new Partners-in-Progress program demonstrates ONAP's realization of the difficulties in getting housing authorities to be administratively capable. The program's primary purpose is to ensure that IHAs are receiving maximum concentrated technical assistance to create a true improvement, not to keep IHAs

afloat as has been the result of many past HUD efforts. It is intended to be a partnership program, not a series of mandates from HUD. HUD has entered into three national contracts to provide consulting services for IHAs in the program.

IHAs have a history of not holding program participants accountable for their actions. For example, with the close relationships and Tribal ties between Housing Authority employees and residents and connections with Tribal leaders, some IHAs face problems in collecting rental and equity payments from residents and in preventing favoritism and nepotism. This problem is compounded by the Tribal Court system which, for some IHAs, has a history of not evicting tenants for non-payment of rent.

External consultants, in many cases former HUD and IHA officials, are creating niches by finding and promoting opportunities within the housing program structure. In the Northwest, when IHAs have taken advantage of these innovative or creative uses of HUD's funds, there have been undesirable results, including a perception of abuse, a misuse of funds, and confusion among the program participants.

In many cases, especially where small population bases are involved, IHAs and Tribes are forced to deal with conflict of interest situations, favoritism and nepotism. Indian Housing is significantly different from Public Housing in this regard. In Public Housing, present members or officers of the governing body and their immediate family are precluded from



participating in the program. This is not the case in Indian housing programs.

### **Reasons for Fraud, Abuse, and Mismanagement: the Role of Deregulation**

HUD's deregulation was not the only factor significantly contributing to these problems. We generally agree with ONAP's position that the conditions reported in *The Seattle Times* were caused by existing program design, administratively incapable IHAs, and HUD's ineffective monitoring and technical assistance. However, deregulation did allow some abuses. Notably, when HUD permitted IHAs to set the sales price on homes, it provided IHAs the opportunity to give houses away to certain homebuyers, to the detriment of other participants.

In 1993, HUD deemphasized on-site monitoring and emphasized targeting resources to technical assistance to correct known problems and to monitoring high risk housing authorities. ONAP staff seem to use these instructions as a convenient excuse to decrease monitoring visits. One local ONAP Administrator told us that his staff was somewhat confused about what their responsibilities were, given cuts in travel funds and staffing levels. In addition, there appears to be a communication problem between ONAP Headquarters and ONAP field offices regarding what monitoring and technical assistance need to be done. As recently as January of this year, Headquarters and Field staff were discussing monitoring policies and what the ONAP field staff should be and should have been doing.

### **The Native American Housing Assistance and Self-Determination Act of 1996**

On October 26, 1996, the President signed into law the Native American Housing Assistance and Self-Determination Act of 1996. The Act consolidates various HUD programs into formula-driven block grants to Tribes. The OIG strongly supports the principal purposes of this legislation. In fact, in June 1995, we had recommended to HUD's Secretary that HUD pursue a consolidation of its existing Native American Programs into a single flexible block grant that would alleviate administrative burdens and better serve Native Americans in meeting their housing and community development needs.

We suggest, however, that HUD and the Congress take another look at the accountability aspects of the Act--in light of i) the fraud, abuse, and mismanagement disclosed by *The Seattle Times*, as well as OIG audit and investigative work; ii) the fact that the Act is to implemented by negotiated rule-making; and iii) the prospects for continuing, significant decreases in ONAP staffing and travel resources. Given the extreme unmet need for low-income housing for Native Americans, the need for real accountability cannot be overemphasized.

We are not advocating the return of inflexible rules and endless procedures. Nor do we want to infringe on Indian self-determination. In the last of *The Seattle Times* articles, Erma Vizenor of the White Earth Band of Chippewa put it this way: “What our tribes need is accountability to our own people. Yes, I believe in self-determination, self-governance and sovereignty, but all of those terms do not mean crime, corruption and abuse. Those terms mean responsibility, accountability, justice and fairness.”

The OIG believes that, if we are to achieve such accountability in Indian housing programs, the Native American Housing Assistance and Self-Determination Act must specify meaningful performance measures and real penalties for poor performance or non-performance. Secretary Cuomo is already proposing to embody these concepts in public housing legislation.

HUD and the Congress must also come to an understanding of ONAP's program administration responsibilities. With decreasing staff and travel funds, it is clear that ONAP cannot be all things to all people. One way to take up the slack is by making the annual independent audits into useful monitoring tools--by, for instance, having HUD (rather than the Indian Housing Authorities) define the scope of the audits and, in high risk cases, having HUD (rather than the Indian Housing Authorities) actually contract for the audits.

Even with meaningful performance measures, real penalties for poor or non-performance, and strengthened audit coverage, however, ONAP would still be faced with carrying out two critical but divergent roles: provider of technical assistance and enforcer of sanctions for poor or non-performance. Secretary Cuomo has recently questioned whether the same group of people can reasonably be expected to function well in both capacities, and we agree that it is a question worthy of consideration.

Chairman Campbell, Chairman D'Amato, that concludes my testimony. I would be happy to answer any questions that you or Members of the Committees have.